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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,134	01/21/2005	Adair Rasmussen	LAMA124291	6156

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EXAMINER

BASICHAS, ALFRED

ART UNIT PAPER NUMBER

3749

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,134

Applicant(s)

RASMUSSEN, ADAIR

Examiner

Alfred Basichas

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/19/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rasmussen (US20010003038), which shows all of the claimed limitations including, among other things,

1. An apparatus (10) for igniting a gas flare, comprising: a housing (14); at least one flow passage (see at least figs. 1,2) extending through the housing; a body (12) made from a heat conducting material in communication with the at least one flow passage; means (64,76,92) for maintaining the body at a temperature above an ignition temperature of a combustible mixture of combustion air and combustible gases, such that the combustible mixture passing along the at least one flow passage is ignited immediately upon coming in contact with the body.

5. The apparatus as defined in claim 1, wherein a heating element (18, 126) embedded in the body (see at least figs. 1,2) serves as the means for maintaining the body at a temperature above the ignition temperature of the combustible mixture.

6. The apparatus as defined in claim 1, wherein the housing has an inlet (98), an outlet (102), and at least one baffle (108) positioned within the housing forms a plurality of interconnected flow passages (see at least figs. 1,2) which collectively define a flow path extending from the inlet to the outlet (see at least figs. 1,2).

7. The apparatus as defined in claim 6, wherein at least one fan (20,82,96) is provided to direct the combustible mixture from the inlet toward the outlet.

Claim Rejections - 35 USC § 102/103

3. Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lazare, Donhardt, Kim, Ripple,

and Burns as applied in applicant's international application no. PCT/CA03/01074 to claims 1-5.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (US20010003038), which discloses substantially all of the claimed limitations. While Rasmussen specifically recites the benefits of construction the invention utilizing ceramic (see at least paragraph 0025), Rasmussen does not specifically state which components. Rasmussen discloses that ceramic is beneficial for commercial use in high temperature environments. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

incorporate ceramic into the body and housing disclosed by Rasmussen, so as to provide for commercial use.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmussen (US20010003038), which discloses substantially all of the claimed limitations, but does not specifically recite:

3. The apparatus as defined in claim 1, wherein the body (16, 124) is annular.

The claimed shape is an obvious modification based on design choice, and depends on spatial considerations. In view of the absence of criticality for this particular design, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate it into the invention disclosed by Rasmussen, so as to provide for spatial considerations.

Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McGehee discloses a pilotless flare ignitor with many of the claimed components. Nevertheless, in order to avoid overburdening the applicant with redundant rejections, these references were not applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone numbers for the organization where this application or proceeding is assigned are 571 273 8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

August 16, 2006



Alfred Basicas
Primary Examiner